IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22727 of 2004

Between:

Smt. Tirumani Leela Sundari, W/o. Babaiah,
Pallipalem, H.No. Antarvedi, Sakhinetipalli Mandal,
E.G.District.

..... PETITIONER

AND

1 The District Collector, (C.SW), Kakinada, East Godavari District.
2 The Revenue Divisional Officer, Amalapuram, East Godavari District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue the Writ of Mandamus or any other appropriate writ order or direction declaring the action of the respondents in proposing to establish a new Fair Price Shop at Pallipalem Village duly bifurcating the existing Fair Price Shop No. 13 contrary to the guidelines issued in Government Memo No. 148/C.S.1/98-1 dt. 22.1.99, as illegal, arbitrary and unconstitutional and pass such other order or orders.

Counsel for the Petitioner:MR.K.CHIDAMBARAM

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is an existing fair price shop dealer of Pallipalem, hamlet of Antarvedi, Sakhinetipalli Mandal, East Godavari District. Her grievance is that the respondents are taking steps to bifurcate the fair price shop, at the instance of local politicians, and in such an event, the shop would become economically unviable. He places reliance upon the guidelines issued by the Government in Government Memo, dated 22.01.1999.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Time and again, this Court held that distribution of the essential commodities through fair price shops is the sole prerogative of the State, and no individual would have any vested or fundamental right in such shops. As regards bifurcation of the shops also, the Courts left the matter completely to the discretion of the authorities and even the economic viability was held not a justiciable factor. It is true that the Government issued memo, dated 22.01.1999, prescribing the guidelines in the matter of establishment of new fair price shops or bifurcation of the existing one's. Various factors, such as, the minimum number of cards to be ensured for each fair price shop depending on the locality etc., are indicated. There is no reason to assume that the respondents would not follow the guidelines. Petitioner can have the genuine grievance, if only any action is taken by the respondents in contravention of the said Memo.

In that view of the matter, the writ petition is disposed of directing that the respondents shall take into account the guidelines contained in Government Memo, dated 22.01.1999, in case, the fair price shop, for which the petitioner is dealer, is

bifurcated. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 09th December, 2004

Note: Office to furnish copy

in three days.

(B/o.)

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To

1 The District Collector, (C.SW), Kakinada, East Godavari District.
2 The Revenue Divisional Officer, Amalapuram, East Godavari District.

3 2CCs to the Government Pleader for Civil Supplies, High

Court Buildings, Hyderabad. (O.U.T)

4 2CD copies.